



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 7, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0213

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion	Not Sustained - Lawful and Proper (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant told Named Employee #1 (NE#1) that he witnessed Community Member #1 (CM#1) get assaulted and become unconscious. The Complainant alleged NE#1 failed to get medical care for CM#1.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee involved in this case.

On June 23, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On May 17, 2023, the Complainant filed a web-based complaint. The Complainant wrote that he witnessed CM#1 get "knocked unconscious," causing a "large hematoma" on his forehead. The Complainant described CM#1 as a special needs person who had difficulty speaking. The Complainant wrote, "The officer did not have a medic unit come to check the victim, which is my main complaint." The Complainant wrote that the officer should have requested medical care as a precaution, even if CM#1 declined it.

OPA opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, and body-worn video (BWV). OPA also interviewed the Complainant.

On May 16, 2023, at 7:17 PM, CAD call remarks noted, "GO WITH FIRE FOR [POSSIBLE OVERDOSE]." NE#1 responded to the scene with his BWV activated, which captured the following events. NE#1 exited his patrol car and was approached by the Complainant. The Complainant pointed to CM#1 and said someone "knocked his ass out." NE#1 asked if this was an overdose, but the Complainant said the overdose incident occurred elsewhere. The Complainant



said CM#1 was unconscious and had a “massive hematoma” on his face. The Complainant thought the police were responding to CM#1, not the overdose incident, and said he was unsure if medical care was coming.

NE#1 approached CM#1, who was standing and appeared to have a red bruise on his right cheek. NE#1 asked CM#1 if he was okay. CM#1’s responses were indiscernible. CM#1 appeared to possibly have a disability. Community Member #2 (CM#2) stood next to CM#1 and spoke about the overdose incident. CM#2 said he did not see what happened to CM#1. NE#1 and CM#1 spoke to each other in Spanish. CM#1 went close to NE#1 twice during their conversation, causing NE#1 to extend his left arm out to keep CM#1 at a distance. NE#1 asked, “Okay, quieres medico, man?”¹ CM#1 responded in Spanish, then walked away. NE#1 did not request medical care over radio.

OPA interviewed the Complainant. The Complainant said he witnessed CM#1 get assaulted and become unconscious. The Complainant said he asked if CM#1 needed medical care, and CM#1 said yes. The Complainant said he did not see CM#1 receive medical care after NE#1 arrived and believed that NE#1 should have requested medical care.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

The Complainant alleged that NE#1 used unreasonable discretion.

Employees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the Department and duties of their office and assignment. SPD Policy 5.001-POL-6. This policy further states, “Discretion is proportional to the severity of the crime or public safety issue being addressed.” *Id.*

Here, NE#1 did not separately call for medical care after the Complainant told him that CM#1 was assaulted and unconscious. The Complainant also noted that CM#1 had a “massive hematoma” on his face, which was captured on BWV. However, the Complainant told NE#1 that a call was already made for CM#1; the Complainant only asked NE#1 to “make sure” aid was coming. Also, NE#1 and CM#1 were able to converse in Spanish without apparent difficulty. CM#1 stood and used hand gestures while he spoke to NE#1, which suggested that CM#1 did not need immediate medical care. CM#1 appeared to have declined medical care and walked away. NE#1 could not force CM#1 to stay and be evaluated by medical personnel. Additionally, there was no factual basis for NE#1 to detain CM#1 under the Involuntary Treatment Act. *See* RCW 71.05.153 (providing that a peace officer may take into custody a person when the officer has “reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled”).

As alleged by the Complainant, NE#1 did not separately request medical care for CM#1, nor did he require CM#1 to remain on the scene to await treatment. However, based on the totality of the circumstance, NE#1 exercised reasonable discretion during his interaction with CM#1.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

¹ OPA used Google Translate to determine that this phrase translated to, “Okay, do you want a doctor, man?”